

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Satellite Home Viewer)	
Extension and Reauthorization Act of 2004)	MB Docket No. 05-49
)	
Implementation of Section 340 of the)	
Communications Act)	
To: The Commission		

**JOINT REPLY COMMENTS OF
MEREDITH CORPORATION AND MEDIA GENERAL COMMUNICATIONS, INC.**

Meredith Corporation (“Meredith”) and Media General Communications, Inc. (“Media General”), by their attorneys, hereby submit these Joint Reply Comments in response to the Comments submitted by Saga Broadcasting, LLC and Saga Quad States Communications, LLC (collectively “Saga”) in the above-captioned proceeding. Meredith is the licensee of KCTV, the CBS affiliate licensed to Kansas City, Missouri, and Media General is the licensee of WJTV, the CBS affiliate licensed to Jackson, Mississippi.

In its Comments, Saga requested that the Commission remove KCTV from the Significantly Viewed List (“SV List”) for Bourbon County in Kansas and Vernon County in Missouri and remove WJTV from the SV List for Carroll, Humphreys, Leflore, Sunflower, and Washington Counties in Mississippi. Saga’s requests are procedurally improper and substantively deficient. As such, the Commission must dismiss Saga’s Comments with respect to KCTV and WJTV.

The Notice of Proposed Rule Making in this proceeding (“SV NPRM”)¹ implements Section 202 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (“SHVERA”), which authorizes satellite carriers to “retransmit to a subscriber located in a community the signal of any station . . . determined by the Federal Communications Commission to be a signal . . . [that is] significantly viewed in such community.”² As directed by Congress,³ the Commission published for comment in this proceeding the list of television stations that it previously had deemed to be “significantly viewed.” The SV NPRM seeks public comment “*only* about whether the SV List accurately reflects . . . existing significantly viewed determinations, and *not* about whether the SV List should be modified”⁴

The Commission’s rules delineate the manner in which parties may petition to alter the application of significantly viewed status and program exclusivity rules in particular communities. Specifically, the Commission will entertain Petitions for Special Relief for additions of television stations to the SV List and for waivers of the significantly viewed exception to the network non-duplication rule with respect to those stations already included in the SV List. Substantively, such Petitions must comply with Section 76.54, which generally sets forth the requirements adopted in *KCST-TV, Inc.* and its progeny.⁵ Petitions for Special Relief also must satisfy the procedural

¹ *In the Matter of Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004*, Notice of Proposed Rule Making, MB Docket No. 05-49 ¶ 14 (rel. Feb. 7, 2005) (hereinafter “SV NPRM”).

² 47 U.S.C. § 340(a)(1) (2004).

³ 47 C.F.R. § 76.54 (2004).

⁴ SV NPRM ¶ 14 (emphasis added).

⁵ 103 FCC 2d 407 (1986). To obtain a waiver of the program exclusivity rules, a petitioner must demonstrate that, for two consecutive years, a station was no longer significantly viewed in particular communities. The evidence must be based on community- or system-specific, noncable viewing data and must indicate that the station’s viewing level fell short of the appropriate standards by at least one standard sampling error. For each year, the data must be obtained by means of an independent

requirements of Sections 76.6 and 76.7, which impose, among other things, a formal pleading cycle, public notice period, and a filing fee obligation.

Saga's Comments are inconsistent with settled law, exceed the narrow scope of the SV NPRM, and fail to satisfy the procedural and substantive requirements for altering the significantly viewed status of KCTV and WJTV. Most importantly, "it is established Commission policy that signals listed by the Commission as significantly viewed are not subject to subsequent deletion,"⁶ lest cable operators become exposed to copyright liability for carrying non-duplicative programming. Consequently, there exists no legitimate basis for deleting KCTV or WJTV from the SV List.

In addition, the SV NPRM seeks comment only on the existence of typographical and clerical errors in the SV List.⁷ The SV NPRM, in other words, did not open a free-for-all in which broadcasters may seek to modify the SV List without regard to the Commission's rules and policies.

Furthermore, Saga did not seek its relief in the form of a Petition for Special Relief that complies with Sections 76.6 and 76.7 (or pay the required filing fee). Nor did Saga provide any of the proportional noncable viewing data required by Commission rule and case law for evaluating requests for waivers of significantly viewed status. Indeed, Saga concedes that "[n]o special survey was conducted" to demonstrate the status of KCTV and WJTV. Consequently, Saga Comments are thoroughly deficient, beyond the scope of this proceeding, and utterly irrelevant to the significantly viewed status of KCTV and WJTV.

professional survey with the data distributed proportionately among the relevant cable communities. The surveys must be taken during two one-week periods that are also separated by at least thirty days. Not more than one of the surveys may be taken between April and September of each year. *Id.*

⁶ *WLFI-TV, Inc.*, Memorandum Opinion and Order, 88 FCC 2d 645 ¶ 2 (1981). *See also Desert Empire Television Corporation and Gulf-California Broadcast Company*, Memorandum Opinion and Order, 10 FCC Rcd 7114 ¶ 6 (CS 1995); *Russell-Rowe Communications, Inc.*, 7 FCC Rcd 2525 (MB 1992).

⁷ SV NPRM ¶ 14.

For the foregoing reasons, the Commission should dismiss Saga's Comments with respect to KCTV in Kansas City, Missouri and WJTV in Jackson, Mississippi.

Respectfully submitted,

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